IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.1245 OF 1997

Harish Shambhulal Hariani, .. Petitioner
Vs
Smt Nafila Amirali Somnani, .. Respondent.

Mr Jagdish Reddy, i/b Mr Niranjan Shimpi, for the petitioner.
None for the respondent.

CORAM : D.B.BHOSALE,J.
DATE : 06.10.2006

PC:

1. Heard the learned counsel for the petitioner.

2. This writ petition challenges the order dated 9.1.1997 passed on Int.Notice No. 4710 of 1991 in RAE & R.Suit No. 1584/5190 of 1983, by which the respondent-defendant was ordered to deposit in the court Rs.8,456.31, without prejudice to the rights of the parties, within a month from the date of the order. The petitioner-plaintiff was granted liberty to withdraw the amount deposited by the defendant. This Court, while issuing rule, had not passed any interim order. Mr Reddy, learned counsel for the petitioner, submits that the petitioner would be satisfied if the question whether the suit premises falls in "C" or "A" category is kept open for the trial Court to decide in the final judgment. I do not wish to express any opinion. However, it is open for the petitioner to raise this

issue during trial and the trial Court shall decide the same in the final judgment.

3. With these observations, this writ petition is disposed of. Rule is discharged.

(D.B.BHOSALE,J.)